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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,284	08/20/2001	Gregory P. Fitzpatrick	BOC9-2001-0004 (239)	5720
40987	7590	03/13/2006	EXAMINER	
AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			SMITH, TRACI L	
			ART UNIT	PAPER NUMBER
			3629	
DATE MAILED: 03/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/933,284

Applicant(s)

FITZPATRICK ET AL.

Examiner

Traci L. Smith

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15, 17-32, 34-39 and 41-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-8, 10-15, 17-32, 34-39 and 41-48 is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is in response to papers filed on December 27, 2005.

Claims 9, 16, 33 and 40 have been cancelled.

Claims 1, 10, 17, 20, 25, 34, 41 and 44 have been amended.

Claims 1-8, 10-15, 17-32, 34-39, 41-48 are pending.

Claims 1-8, 10-15, 17-32, 34-39, 41-48 are rejected.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims **1-2, 4-8, 10-15, 17-26, 28-32, 34-39, 41-48** are rejected under 35 U.S.C. 103(a) as being obvious over US Patent 6,539,232; Method and System for Connecting mobile users based on degree of separation. Hendrey et al, in view of non-patent literature "Personal Area Networks: Near-field intrabody communication"; IBM Systems Journal; 1996 Zimmerman.

4. As to claims **1, 10, 17, 20, 25, 34, 41 and 44** Hendrey teaches:

Receiving communication from one portable device to another(C.5 I. 8 & 28).

Receiving a communication at a central station from a device

identifying common contacts between users of two devices(C. 5 I. 40-50)

Sending communication to the two devices identifying they have a common contact(C. 2 I. 53-54 C. 19 I. 60-63)

Hendrey fails to teach the wireless communication as a "intra-body near field communication". However, Zimmerman teaches a sharing contact information using near field intrabody communication to share information of two people(Pg. 8 Par. 1-2). It would have been obvious to one skilled in the art at the time of invention to combine Zimmerman with Hendrey as Zimmerman states it increases the usefulness of sharing information by giving additional features not provided by other independent devices and being alternatives to infrared and far-field communication.

5. As to claims 2, 11-12, 26 and 35-36 Hendrey teaches identifying the two users in later correspondence(C. 10 I. 40-43 and 51)

6. As to claims 4-5 and 28-29Hendry teaches notification sent to devices telling user another user is identified with a common contact(C. 20 I. 1-5)

7. As to claims 6, 13, 18-19, 21-22, 30, 37, 42-43 and 45-46Hendrey teaches the identifier being visually displayed either in text, graphical form.(C. 4 I. 12-15).

8. As to claims 7-9, 14-16, 23-24, 3-33, 37-40 and 47-48 Hendrey teaches wireless communication using pagers, cell phones and wearable computers. The examiner

notes that the wireless communication of infrared are inherent in the devices claimed by the prior art.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 3 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,539,232; Method and System for Connecting mobile users based on degree of separation. Hendrey et al.\

12. As to claims 3 and 27 Hendrey teaches a method of identifying common contacts among mobile device users. However, Hendrey fails to teach identifying the common contact in a communication to the users. It would have been obvious to one of ordinary skill in the art at the time of invention to identify to the users what the commonality is so the users are aware of how they are receiving this communication and it's safe to

communicate back. Hendrey identifies the users setting the "degrees of separation" for which one qualifies to have information sent, there for user meeting a second user or receiving information would want to know how this person is connected to them. What type o relationship is there between them and the second user.

### ***Response to Arguments***

13. Applicant's arguments with respect to claim December 27, 2005 have been considered but are moot in view of the new ground(s) of rejection.

14. As to applicants arguments regarding that it would not have been obvious to associate location of a device with identifying a person. However, the examiner notes that applicant is claiming "a near-field" intrabody communication; which is based on the location of a second user. The second user must be close enough to have physical contact therefore applicants own invention has a location device limitation. In which case examiner asserts it would have been obvious to one of ordinary skill in the art to provide the common contact information of the two users to the two users so they are aware of how/why they are being connected.

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

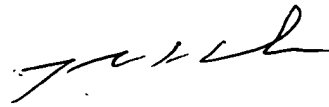
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Smith whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TLS



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